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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,088	10/05/2005	Luc Forget	OVL0001US	2020
23413 7590 07/22/2010 CANTOR COLBURN, LLP 20 Church Street 22nd Floor Hartford, CT 06103				
EXAMINER				
KRUER, KEVIN R				
ART UNIT		PAPER NUMBER		
1787				
NOTIFICATION DATE		DELIVERY MODE		
07/22/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptopatentmail@cantorcolburn.com

Office Action Summary

Application No.

10/535,088

Applicant(s)

FORGET ET AL.

Examiner

KEVIN R. KRUEER

Art Unit

1787

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/5/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 9-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, claims 1-8, in the reply filed on February 26, 2009 is acknowledged.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

3. The drawings filed May 13, 2005 are accepted.

Claim Rejections - 35 USC § 112

4. The rejection of claims 1-8 under 35 U.S.C. 112, first and second paragraphs, has been overcome by amendment and/or argument.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hanoka (US 6,114,046) in view of Dewart et al (US 6,114,456).

Hanoka teaches a solar cell module comprising a laminate; the laminate comprises an ionomeric layer, a metallocene catalyzed polyethylene layer, two inner layers of

highly transparent material (col 5, lines 2+) such as a metallocene catalyzed polyethylene layer, and an ionomer layer (Figure 1). The ionomeric layer reads on the claimed wear layer, the two polyethylene transparent layers read on the claimed substrate and intermediate layers.

With regards to claim 6, the second ionomeric layer is understood to read on the substrate and the two polyethylene transparent layers are understood to read on the claimed intermediate and additional layers, respectively.

Hanoka does not teach the polyethylene transparent layers should comprise the claimed intermediate layer compositions. However, Dewart teaches a composition comprising metallocene catalyzed medium density polyethylene and low density polyethylene in amounts of 30-97.5wt% (abstract; col 6, lines 1+). Said range is understood to anticipate the claimed range since it overlaps the claimed range. Alternatively, it would have been obvious to optimize the amount of LDPE in the composition in order to improve the processability (Table III) and optical properties (background of the invention) of the composition. The composition exhibits excellent transparency and stiffness (Summary of the invention). Thus, it would have been obvious to utilize the blend of Dewart as the polyethylene transparent layers of Hanoka in order to optimize the transparency, gloss, and stiffness of the laminate.

With regards to claims 15 and 16, Hanoka teaches the polyethylene transparent layers may be pigmented (col 6, lines 42+). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize mineral filler which is

typically used in the art as a pigment, such as calcium carbonate, in the polyethylene layers of Hanoka in order to pigment said layers.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hanoka (US 6,114,046) in view of Dewart et al (US 6,114,456), as applied to claims 1-7 and 14-16 above, and further in view of JP-0923018.

Hanoka is relied upon as above but does not teach a polyurethane layer may be applied to the ionomeric layer. However, JP-018 teaches the application of a polyurethane layer to a solar cell module substrate in order to eliminate the need for glass layers (see abstract and column 2, lines 30+ of Hanoka). Therefore, it would have been obvious to the skilled artisan at the time the invention was made to add a polyurethane layer to the ionomer layer of Hanoka in order to eliminate the need for glass layers.

Response to Arguments

Applicant's arguments filed May 5, 2010 have been fully considered but are not persuasive.

Applicant argues the claimed invention is directed to a surface covering wherein Hanoka is directed to an encapsulated material used in solar cells. Applicant concludes an encapsulated material does not read on a surface covering, but fails to explain how such a conclusion is reached. The examiner notes neither applicant's arguments nor the original disclosure discloses properties and/or limitations which are inherent to "surface coverings" which are not met by the Hanoka reference. Applicant argues "it is known that a surface covering has specific mechanical properties, particularly in terms

of mechanical resistance, wear and indentation resistance, but also in terms of comfort, softness, sound and heat insulation. Said argument is noted but is not persuasive because counsel's argument cannot take the place of evidence; applicant has not provided any evidence supporting their conclusions regarding the inherent properties of surface coverings.

Applicant further argues Hanoka does not teach two polyethylene transparent layers as suggested by the examiner. The examiner respectfully disagrees and notes that the transparent polyethylene layer (12) is made up of two polyethylene sublayers (12a and 12b). In such embodiments, one polyethylene layer can read on the substrate and the other can read on the claimed intermediate layer.

Second, applicant argues Hanoka fails to anticipate the claimed invention. Said argument is noted but the examiner never relied upon Hanoka to anticipate the claimed invention. Rather, Dewart was relied upon to render obvious the claimed intermediate layer composition. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Finally, applicant argues the structure of Hanoka is symmetrical whereas the claimed invention provides a multilayer film which is asymmetrical. Said argument is noted but is not persuasive because Hanoka does not necessarily require the film be symmetrical. Furthermore, the argument is not persuasive because it is not

commensurate in scope with the pending claims. The claims do not require the claimed laminate be asymmetrical.

With regards to Dewart, applicant argues there would have been no suggestion in the two documents that would have prompted the skilled artisan to combine these two documents in a manner suggested by the Examiner. The examiner respectfully disagrees. Hanoka teaches transparency is desirable and Dewart teaches the blend taught therein is known to have excellent transparency.

With regards to JP-018, applicant argues the reference fails to correct the deficiencies of the primary reference. Said argument is not persuasive for the reasons noted above. Therefore, the rejection is maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN R. KRUER whose telephone number is (571)272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin R Krue/

Primary Examiner, Art Unit 1794